

AMENDED IN ASSEMBLY APRIL 18, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 875

**Introduced by Assembly Members Koretz and Jerome Horton
(Coauthors: Assembly Members Chu, Hancock, and Leno)**

February 18, 2005

An act to add Sections ~~511.1, 559, 559~~ and 1197.2 to the Labor Code, relating to employee wages and working hours.

LEGISLATIVE COUNSEL'S DIGEST

AB 875, as amended, Koretz. Employee wages and working hours: violators.

~~Existing law permits employees, upon the proposal of their employer, to adopt an alternative workweek that authorizes work by the employees for no longer than 10 hours per day within a 40-hour workweek without requiring payment of overtime compensation. Proposals for alternative workweeks may be adopted only if approved in a secret ballot election by at least $\frac{2}{3}$ of the affected employees in a work unit. Existing law requires that the results of the election must be reported by the employer to the Division of Labor Statistics and Research within 30 days after the results are final.~~

~~This bill would require the Director of Industrial Relations to develop and provide to employers a form for reporting election results and would specify the information required to be contained in each report.~~

Existing law attributes various duties and requires private employers to perform certain activities with regard to employee wages, hours, and working conditions.

This bill would require the Economic and Employment Enforcement Coalition, in consultation with the Franchise Tax Board and the Joint

Enforcement Strike Force on the Underground Economy, to develop and implement sets of standards that, if met by an employer, would trigger recommendation for an audit by appropriate state tax authorities of employers in violation, and referral to the Labor Commissioner for investigation of violations, of statutes relating to employee wages, hours, and working conditions. After July 1, 2006, this bill would require the Labor Commissioner and state tax authorities to take specified actions to facilitate audits and investigations of employers who meet the standards required by this bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 511.1 is added to the Labor Code, to~~
2 ~~read:~~
3 ~~511.1. The director shall develop and provide a form for~~
4 ~~employers to use to report the results of any election pursuant to~~
5 ~~subdivision (e) of Section 511. Each report shall describe the size~~
6 ~~of the unit, the date of the election, the final tally of the vote, the~~
7 ~~nature of the business, the form of the alternative workweek~~
8 ~~adopted, and other related matters as the director may prescribe.~~
9 ~~SEC. 2.~~
10 ~~SECTION 1. Section 559 is added to the Labor Code, to read:~~
11 ~~559. (a) The Economic and Employment Enforcement~~
12 ~~Coalition, in consultation with the Franchise Tax Board and the~~
13 ~~Joint Enforcement Strike Force on the Underground Economy,~~
14 ~~shall, by July 1, 2006, develop and implement an appropriate set~~
15 ~~of standards that, if met by an employer, will trigger~~
16 ~~recommendation for an audit by appropriate state tax authorities~~
17 ~~of employers in violation of this chapter. The set of standards~~
18 ~~shall take into account, among other things, the severity and~~
19 ~~number of violations committed by an employer.~~
20 ~~(b) The Economic and Employment Enforcement Coalition, in~~
21 ~~consultation with the Franchise Tax Board and the Joint~~
22 ~~Enforcement Strike Force on the Underground Economy, shall,~~
23 ~~by July 1, 2006, develop and implement an appropriate set of tax~~
24 ~~violation standards that, if met by an employer, will trigger~~

1 referral to the Labor Commissioner for investigation for
2 violations of this chapter.

3 (c) After July 1, 2006, the Labor Commissioner shall take all
4 of the following actions with respect to an employer who has met
5 the set of standards developed by the Economic and Employment
6 Enforcement Coalition pursuant to subdivision (a):

7 (1) Notify the appropriate state tax authorities each time the
8 set of standards is met by an employer.

9 (2) Provide the appropriate state tax authorities with the name
10 of the employer and all relevant and necessary information
11 regarding the violations.

12 (3) Make a recommendation to the appropriate state tax
13 authorities that the employer be audited.

14 (d) The Labor Commissioner shall compile a list of referrals
15 made to the appropriate state tax authorities under subdivision (c)
16 on an annual basis. The list shall specify the name and tax
17 identification number of each employer and the nature of the
18 violations.

19 (e) After July 1, 2006, the appropriate state tax authorities
20 shall take all of the following actions with respect to an employer
21 who has met the set of standards developed by the Economic and
22 Employment Enforcement Coalition pursuant to subdivision (b):

23 (1) Notify the Labor Commissioner each time the set of
24 standards is met by an employer.

25 (2) Provide the Labor Commissioner with the name of the
26 employer and all relevant and necessary information regarding
27 the violations.

28 (3) Make a recommendation to the Labor Commissioner that
29 the employer be investigated for violations of this chapter.

30 (f) The appropriate state tax authorities shall compile a list of
31 referrals made to the Labor Commissioner under subdivision (e)
32 on an annual basis. The list shall specify the name and tax
33 identification number of each employer and the nature of the
34 violations.

35 ~~SEC. 3.~~

36 *SEC. 2.* Section 1197.2 is added to the Labor Code, to read:

37 1197.2. (a) The Economic and Employment Enforcement
38 Coalition, in consultation with the Franchise Tax Board and the
39 Joint Enforcement Strike Force on the Underground Economy,
40 shall, by July 1, 2006, develop and implement an appropriate set

1 of standards that, if met by an employer, will trigger
2 recommendation for an audit by appropriate state tax authorities
3 of employers in violation of this chapter. The set of standards
4 shall take into account, among other things, the severity and
5 number of violations committed by an employer.

6 (b) The Economic and Employment Enforcement Coalition, in
7 consultation with the Franchise Tax Board and the Joint
8 Enforcement Strike Force on the Underground Economy, shall,
9 by July 1, 2006, develop and implement an appropriate set of tax
10 violation standards that, if met by an employer, will trigger
11 referral to the Labor Commissioner for investigation for
12 violations of this chapter.

13 (c) After July 1, 2006, the Labor Commissioner shall take all
14 of the following actions with respect to an employer who has met
15 the set of standards developed by the Economic and Employment
16 Enforcement Coalition pursuant to subdivision (a):

17 (1) Notify the appropriate state tax authorities each time the
18 set of standards is met by an employer.

19 (2) Provide the appropriate state tax authorities with the name
20 of the employer and all relevant and necessary information
21 regarding the violations.

22 (3) Make a recommendation to the appropriate state tax
23 authorities that the employer be audited.

24 (d) The Labor Commissioner shall compile a list of referrals
25 made to the appropriate state tax authorities under subdivision (c)
26 on an annual basis. The list shall specify the name and tax
27 identification number of each employer and the nature of the
28 violations.

29 (e) After July 1, 2006, the appropriate state tax authorities
30 shall take all of the following actions with respect to an employer
31 who has met the set of standards developed by the Economic and
32 Employment Enforcement Coalition pursuant to subdivision (b):

33 (1) Notify the Labor Commissioner each time the set of
34 standards is met by an employer.

35 (2) Provide the Labor Commissioner with the name of the
36 employer and all relevant and necessary information regarding
37 the violations.

38 (3) Make a recommendation to the Labor Commissioner that
39 the employer be investigated for violations of this chapter.

1 (f) The appropriate state tax authorities shall compile a list of
2 referrals made to the Labor Commissioner under subdivision (e)
3 on an annual basis. The list shall specify the name and tax
4 identification number of each employer and the nature of the
5 violations.

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